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ALEXANDER L. STEVAS
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NO: 83-1506

IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1983

W.J.TERRY, Petitioner,

v.

HANS BOTHKE, Respondent.

BOTHKE'S SUPPLEMENTAL BRIEF IN OPPOSITION TO THE PETITION FOR WRIT OF CERTIORARI

HANS BOTHKE
400 S.Flower #156
Orange ,Calif.92668
Tel:(714)978-2724
Respondent in pro per.

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IN THE SUPREME COURT OF THE UNITED STATES

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PRELIMINARY STATEMENT.

Bothke, respondent, files hereby his supplemental brief pursuant to Rule 22.6 of this Court in opposition to the petition for writ of certiorari, calling attention to the intervening matter that the U.S. Treasury paid Terry's costs taxed against her in the Ninth Circuit of Appeals, not available at the time when Bothke filed his timely Brief in opposition to the petition for certiorari.

This supplemental brief is supported with the herein set forth Memorandum of Points and authorities,Appendix A,B and C and Bothke's Declaration attached.

The Original Check No: 385,000 in the sum of 210.50 is enclosed for the Court to return the same to the U.S.Treasury or subject to this Court's final decision in this instant matter.

MEMORANDUM OF POINTS AND AUTHORITIES.

This Court's attention and authority in it's decision making process is urgently required to resolve the matter of Terry's liability and conduct in this instant case in conjunction with the forthcomming decision in this case and previous established doctrine as set forth herein-after.

Terry had arranged in cooperation with her counsels in the Department of Justice that the taxed costs against her in the sum of $210.50,certified and approved by the Ninth Circuit,(App.A & B) be paid out of

Taxpayer's funds, the U.S.Treasury.
See Original Check attached No: 385,000
or a true copy thereof in Appendix C.

Terry's action in conjunction with her counsels of record, do not find any support in law and constitute an obstruction of justice.

An inspection of Terry's petition on page 8 and 10 demonstrates her false allegation before this honorable Court, by stating therein that the decision below suggests that Terry may be forced to litigate and be subject to the cost of a trial.

The record shows to the contrary, specifically that Terry received a free of charge defense and that the taxed bill of costs against her was also paid out of taxpayer's funds, proving her allegations to be false and frivolous.

The facts in this instant case establish the following: (1) The Bill of Costs is taxed against Terry; (App.A & B) (2) Terry by and through her counsels of record arran-

ged unlawfully for the U.S.Treasury to pay the taxed costs for her;(App.C) and (3) Terry was provided with a free defense paid out of taxpayers funds for violating established laws.(Entire record.)

Bothke strongly objected against these unlawfull missappropriations of taxpayers funds by motion filed with the Ninth Circuit.

Without legal authority,the clerk of the lower Court returned the government's check to Bothke,by alleging it to be by the order of the Court,and also notified Bothke therein that the motion will be lodged but not filed.(App.D)

An inspection of this spurious order(App.D) reveals the extraordinary legal irregularities: (a) The order is not signed by the Court;(b) The order is signed by the clerk, when in fact and law the clerk has no authority by law to sign orders of the Court; (c) The order states that the motion is

lodged but not filed, denying thereby to Bothke the fundamental right to be heard and depriving Bothke of procedural due process and justice; and (d) the spurious order implies the clerk's authority to allow the government's check to satisfy the jusgment for costs, contrary to established law and doctrine by this court.

Additional facts in the record which must be considered are: (e) this action is and was not brought against the United States, because the United States did not injure Bothke, but Terry did; (f) Terry is being sued in her individual capacity; and (g) No certificate was issued on Terry's behalf by any Court pursuant to 28 U.S.C. Section 2006, which is mandatory and a prerequisite for the Treasury to pay her costs and litigation.

Section 2006 states:

> "Execution shall not issue against a collector or other revenue officer on a final judgment in any proceeding against him for any of his acts,

or for the recovery of any monies exacted by or paid to him and subsequently paid into the Treasury, in performing his official duties, if the Court certifies that:
(1) Probable cause existed;or
(2) The officer acted under the direction of the Secretary of the Treasury or other proper government officer."
"When such certificate has been issued,the amount of the judgment shall be paid out of the proper appropriation by the Treasury."

The record shows that Terry in her interrogatories No: 22,stated that she acted on her own behalf.(Opposition p.7 and fact No: 13)

No certificate was issued on her behalf that probable cause existed for her unlawful conduct,pursuant to 28 U.S.C.,Section 2006,which is obvious based on her role as prosecutor,judge,juror and marshall,as determined by the lower court in its decision,wherein she admitted her violation of statutory provisions of the Revenue Code. (Petition,p.10 and 11.)Thereby violating willfully and knowingly constitutional safeguards and due process of law and Bothke's

rights thereunder,as set forth in Bothke's opposition.

The result in U.S.v Cumming (oppos.p.18) and in U.S.vNunnally,316 U.S. 258,86 L.Ed 1455,was drawn in harmony with Section 2006 that a collector was personnally responsible for illegally exacting monies under the claim that they were due as taxes,and that such a "personal"remedy against the collector has always been part of our fiscal administration.This rule has been reaffirmed in an unbroken line of authority.

This set forth doctrine of this honorable Court makes good sense because if not so, there exists no enforcement or incentive for government officers to comply with extablished law,and the law becomes meaningless.

In light of the set forth facts,authorities and legal irregularities by the lower court's clerk,Terry and her counsels of record,additional attention of this Court is desperately required to enforce the established law in harmony with this Court's

own decisions,as set forth herein;and to order the return of the attached Treasury check No: 385,000 to the Treasury;Order Terry to pay the taxed costs based on the lower court's order(App.A & B);and award damages to Bothke against Terry,as this Court deems just and proper,for willful disregard and disobedience of the Court's authority,and to restore thereby the offended dignity and authority of the Courts in this instant case in the interest of justice.

Repsectfully submitted,

Dated: May 6,1984

Hans Bothke,respondent
in pro per.

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

NO: 83-1506

DECLARATION OF HANS BOTHKE

Hans Bothke of Orange, California states as follows:

1. I, am the respondent in pro per, in the above entitled action;
2. The lower Court had taxed costs in the sum of $ 210.50 against Terry; (App.A & B)
3. This action is not against the United States; (Entire record.)
4. Terry was notified by Bothke about her outstanding Bill of Costs, and subsequent notification arranged with her counsels of record of the U.S.Department of Justice for the U.S.Treasury to pay her taxed bill of Costs. (App.C)
5. Subject to this instant action, Terry is defended by the United States free of charge to her.
6. Bothke had submitted to the Ninth Circuit a motion for sanctions against Terry and others for contempt of Court and for conspiracy to defraud the United States;
7. The Ninth Circuit did not rule on Bothke's submitted motion. (App.D)

8. The clerk of the Ninth Circuit returned Bothke's submitted check received from the U.S.Treasury and informed Bothke that the motion is lodged but not filed. (App.D)
9. The alleged Order received by Bothke from the clerk is not signed by the Court,but by the clerk.
10. No certificate pursuant to 28 U.S.C. Section 2006 was issued by any Court on behalf of Terry,authorizing the U. S. Treasury to pay Terry's bill of costs.(entire record.)

I,under penalty of perjury declare pursuant to 28 U.S.C. Section 1746 that the foregoing is true and correct and that I can testify competently to the matters set forth herein,if so required.

Executed this 7th day of may,1984 in the City of Orange.

Hans Bothke,declarant.

APPENDIX A

Judgment December 7,1983-Revised mandate issued with costs

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

HANS BOTHKE, Plaintiff-Appellant,

v.

FLUOR ENGINEERS AND CONSTRUCTORS,INC., et al., Defendants and
W.J.TERRY, Defendant-Appellee.

No: 81-5457
DC# CV 80-4450-ML

Appeal from the United States District Court for the Central District of California.

This Cause came on to be heard on the Transcript of the Record from the United District Court for the Central District of California and was duly submitted.

On Consideration Whereof,It is now here ordered and adjudged by this Court,that the judgment of the said District Court in this Cause be,and hereby is REVERSED IN PART,VACATED IN PART AND REMANDED.

NOTE: BILL OF COSTS ATTACHED,AWARDING, appellant HANS BOTHKE costs in the sum of $ 210.50. Filed and entered January 24,1983.

APPENDIX B

December 1,1983

MEMORANDUM

TO: CLERK WINBERRY

ATTN: Ms. Pat Namekawa,Deputy Clerk

RE: Bothke v.Fluor Engineers & Constructors - 81-5457

I compute the costs to be taxed at $ 210.50.

Please enter that amount on the form and file.

signature
EUGENE A,WRIGHT
CIRCUIT JUDGE

EAW/ar

APPENDIX D

FILED
APR 09 1984
PHILLIP B.WINBERRY
Clerk,U.S.Court of Appeals

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

HANS BOTHKE, Plaintiff-Appellant,

v.

FLUOR ENGINEERS AND CONSTRUCTORS,INC., SUSAN MEYERS,MICHAEL CASTROGIOVANI,and W.J.TERRY, Defendants-Appellees.

ORDER NO: 81-5457
DC # 80-4450-MML(JR)

Before: Wright,Kennedy,and Boochever, Circuit Judges.

Mr.Bothke's motion,received by the clerk on March 14,1984,will be lodged with the clerk,but not filed.

The clerk will return to Mr. Bothke the government's check and satisfy the judgment for costs.

April 9,1984

Mr. Bothke,per above order,we return your check in the amount of $ 210.50, Treasury Check No: 385,000.

Phillip B.Winberry,Clerk
U.S.Court of Appeals for
the Ninth Circuit

By signature
Deputy Clerk

JUSTICE

U. S. MARSHAL

WASHINGTON, DISTRICT OF COLUMBIA Check No. 385,000

SYMBOL 8116

81 811 United States Treasury 1631 March 6, 1984

PAY TO THE ORDER OF ***$210and50/100*** DOLLARS

Hans Bothke

VO. NO.

UNITED STATES MARSHALS

⑈385⑈ ⑆000000518⑆ 00385⑈0000⑈

APPENDIX C